

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES  
SAN FRANCISCO BRANCH OFFICE**

**DYCOR TRANSITIONAL HEALTH-COMMUNITY  
CARE LLC**

**Employer**

**and**

**Case 32-RD-226186**

**REGINA NORIEGA**

**Petitioner**

**and**

**SERVICE EMPLOYEES INTERNATIONAL UNION,  
LOCAL 2015**

**Union**

**and**

**DYCOR TRANSITIONAL HEALTH-COMMUNITY  
CARE LLC**

**Cases 32-CA-231820  
32-CA-234347**

**Respondent**

**and**

**SERVICE EMPLOYEES INTERNATIONAL UNION,  
LOCAL 2015**

**Union**

**COUNSEL FOR THE GENERAL COUNSEL'S OPPOSITION TO RECEIVER'S  
MOTION TO POSTPONE HEARING**

Counsel for the General Counsel files this response to Associate Chief Administrative Law Judge Gerald Etchingham's April 30, 2019 Order to Show Cause as to why Receiver Thomas Seaman's request to postpone the May 7, 2019 hearing in this matter to August 7, 2019 should not be granted. The Region is opposed to the request because Respondent has already been granted one postponement in this matter and because the length of time requested is excessive, even given Respondent's new circumstances.

As a result of the Union's recent request to withdraw the charge in Case 32-CA-234347, and its intent to withdraw one and partially withdraw another objection to the election in Case 32-RD-226186, this consolidated matter is now limited to the Union's remaining objections and the allegation in Case 32-CA-231820 that Respondent violated Section 8(a)(1) of the Act by coercive statements made in flyers distributed to employees leading up to the election. An Order Withdrawing reflecting these changes will issue shortly. What remains is not a lengthy or complicated trial or one that Mr. Seaman will have any difficulty in securing a new attorney to prepare Respondent's case for hearing. Accordingly, a three-month postponement of the hearing is unwarranted, unnecessary, and should be denied. Respondent has been aware, since issuance of Complaint on January 30, 2019, that it would need an attorney to represent it in this matter. Papers filed in the San Joaquin County Superior Court also reflect that it has been aware that it was at risk of receivership for many months. Since the San Joaquin County Superior Court appointed Mr. Seaman as Receiver on April 19, 2019, it is the Region's position that a postponement to May 19, 2019, 30-days after receivership, is sufficient time to secure new counsel, especially given the straight-forward nature of the allegations and objections to be litigated.

In any event, the most practical approach here is for the parties to settle this matter immediately. Counsel for the General Counsels seeks a remedy whereby Respondent would post a Notice to Employees to remedy the 8(a)(1) allegations and agree to a new election, neither of which entail any back wages or monetary remedies to further drain Respondent's limited resources. Rather, settlement of a case of this nature is in Respondent's interest because it will save the costs of litigation and enable it to pay vendors who provide material medical goods and services to care for its patients. If Respondent goes to trial on August 7, 2019, in a case with zero monetary liability, it will divert resources that could be spent to remain open to pay for litigation of a matter that should settle for obvious cost-benefit reasons. These matters certainly must be uppermost in Mr. Seaman's mind. Indeed, should the parties reach a settlement of this matter, both the Notice posting period and the conduct of a new election could be accomplished well before August 7, 2019, Respondent's requested date to litigate.

In the interest of the parties taking another opportunity to settle this matter, on April 30, 2019, Counsel for the General Counsel submitted a revised Informal Settlement Agreement to Mr. Seaman for his review, reflecting the recently narrowed scope of the allegations in this case.

Counsel for the General Counsel appreciates the opportunity provided by the Chief Administrative Law Judge to express her opposition to this postponement request.

**DATED AT** Oakland, California this 1<sup>st</sup> day of May 2019.

Respectfully submitted,

/s/ Lelia M. Gomez

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